

NOTICE OF VIOLATION

29019

ODNR

OHIO DEPARTMENT
OF
NATURAL
RESOURCES

DIVISION OF MINERAL
RESOURCES MANAGEMENT
2050 EAST WHEELING AVE.
CAMBRIDGE, OH, 43725

TO: AMERICAN ENERGY CORPORATION PERMIT NO: D-1159
ADDRESS: 43521 MAYHUGH ROAD DISCOVERY DATE: 3-15, 2010
BEALLSVILLE, OHIO 43716

APPLICABLE STATUTE AND/OR RULE:

O.R.C. 1513.02(D)(2).
O.A.C. 1501:13-9-04

DESCRIPTION OF VIOLATION:

OPERATOR HAS FAILED TO MAINTAIN THE
S.A.D.E. AREA.

(A) REMEDIAL ACTION & ABATEMENT TIME:

REPAIR THE EROSION AND INSTALL AND MAINTAIN
A SILT FENCE TO CONTROL ALL THE SEDIMENT.
TIME: 5:00 a.m. ☐ / p.m. ☒ DATE: 4-30, 2010

(B) REMEDIAL ACTION & ABATEMENT TIME:

TIME: _____ a.m. ☐ / p.m. ☐ DATE: _____, 20____

SERVED TO: C. J. Anderson BY: J. P. Pugh TIME: 5:50 a.m. ☐ / p.m. ☒ DATE: 3-31, 2010
Authorized Representative

EXTENDED TO: 5:00 a.m. ☐ / p.m. ☐ 6-4, 2010 EXTENDED TO: _____ a.m. ☐ / p.m. ☐ _____, 20____

Served to: C. J. Anderson Date: 4-28-10 Served to: _____ Date: _____

By: J. P. Pugh Date: 4-28-10 By: _____ Date: _____

EXTENDED TO: _____ a.m. ☐ / p.m. ☐ _____, 20____ EXTENDED TO: _____ a.m. ☐ / p.m. ☐ _____, 20____

Served to: _____ Date: _____ Served to: _____ Date: _____

By: _____ Date: _____ By: _____ Date: _____

MODIFIED: _____, 20____ To: _____ By: _____

NON-COMPLIANCE: _____ a.m. ☐ / p.m. ☐ _____, 20____ To: _____ By: _____

Cessation Order Issued? ☐ yes ☐ no If no, explain

VACATED: _____, 20____ To: _____ By: _____

TERMINATED: 1:47 a.m. ☐ / p.m. ☒ 6-7, 2010 To: C. J. Anderson By: J. P. Pugh

CIVIL PENALTY ASSESSMENTS

This Notice of Violation may result in a *civil penalty assessment of up to \$5,000.00 per day*. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments.

FAILURE TO COMPLY

Failure to comply with *any* remedial action required by this Notice of Violation, within the prescribed abatement time, may result in *CESSATION OF MINING* and a civil penalty assessment of at least *\$750.00 PER DAY*, for each day the violation continues.

INSTRUCTIONS FOR FILING YOUR NOTICE OF APPEAL

To initiate an appeal to the Reclamation Commission, you must have an interest which is, or may be, adversely affected by a decision of the Division Chief. You may appeal the Chief's decision by filing a notice of appeal with the Reclamation Commission.

At a minimum, your notice of appeal to the Reclamation Commission must:

- Be filed within 30 days of your receipt of the Chief's decision;*
- Include a statement of the grounds upon which your appeal is based;*
- Have attached to it a copy of the Chief's decision being appealed; and*
- If the appeal is from a civil penalty, include a check in the amount of the penalty.*

Your notice of appeal may include a request that the Commission members view the site in question. Temporary Relief may also be requested; this will allow for an expedited hearing in some cases.

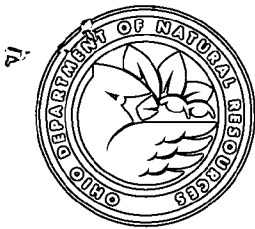
Your notice of appeal must be directed to the Reclamation Commission at the following address:

*Reclamation Commission
2045 Morse Rd.
Building F-2
Columbus, OH 43229-6693*

Also, a copy of your notice of appeal, including the attached copy of the Chief's decision, must be sent to the Division Chief within three (3) days after filing the notice of appeal with the Commission at:

*Chief, Division of Mineral Resources Management
2045 Morse Rd.
Building H-3
Columbus, OH 43229-6693*

FAILURE TO COMPLY WITH ANY OF THESE REQUIREMENTS WILL RESULT IN A DISMISSAL OF YOUR APPEAL WITHOUT A HEARING.



Ohio Department of Natural Resources

TED STRICKLAND, GOVERNOR

SEAN D. LOGAN, DIRECTOR

John F. Husted, Chief

Ohio Department of Natural Resources
Division of Mineral Resources Management
34 Portsmouth Street
Jackson, Ohio

Phone: (740) 286-6411 Fax: (740) 286-1868

April 23, 2010

American Energy Corporation
43521 Mayhugh Rd.
Beallsville, OH 43716

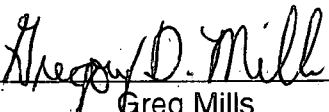
RE: Assessment for Notice of Violation number 29019, Permit Number D-1159

The Division of Mineral Resources Management's civil penalty assessment program does not require a civil penalty to be assessed for a violation if the violation is assigned a monetary penalty amount less than or equal to five hundred dollars (\$500.00).

In determining the amount of the penalty, we are required by rule 1501:13-14-03 to consider the permittee's history of violations on the permit; the seriousness of the violation; the degree of negligence, if any; and how rapidly the permittee abated the violation.

Using these criteria, the Division of Mineral Resources Management determined the amount of the penalty for the violation shown above to be equal to or less than five hundred dollars (\$500.00), thus no penalty will be assessed. However, if the violation is not abated within the prescribed abatement period, a minimum assessment of \$750.00 per day will be assessed for each date of non-compliance, up to thirty days.

The violation shown above will remain on your record unless vacated as a result of administrative or judicial review.


Greg Mills
Assessment Officer

C: John Puterbaugh

ohiodnr.com



DMRM ASSESSMENT OFFICER WORKSHEET

NOV#: 29019	PERMIT #: D-1159 (American Energy Corp.)	CPA#:
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SERIOUSNESS:

1	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Did the violation cause damage to permitted or unpermitted land? (\$400.00)	\$0.00
2	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Did the violation cause irreparable or irreversible damage to permitted or unpermitted land? (\$400.00)	\$0.00
3	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Did the violation cause a situation which increased the probability of the public health or safety being adversely affected? (\$400.00)	\$0.00
4	<input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A	If an administrative violation (e.g. maps, permits, blast records, failure to notify for inspection purposes, etc), did the violation obstruct enforcement or deny the Division or public the opportunity to exercise enforcement or permitting requirements. (\$200.00)	\$0.00

SERIOUSNESS TOTAL:

\$0.00

Damage is not considered a factor as a result of the violation.

Explain:

NEGLIGENCE:

5	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Was the violation avoidable by the exercise of reasonable care? (\$200.00)	\$200.00
6	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Was the violation a reckless act or a result of recklessness? (\$500.00)	\$ -
7	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Was the violation knowingly or intentionally committed for economic gain from production (i.e. removal of overburden and/or coal)? (\$2,200.00)	\$ -

NEGLIGENCE TOTAL:

\$200.00

Explain:

Permittee should be aware of the requirements to maintain the drainage exemption area per the approved plan. Exercise of reasonable care would have prevented the violation.

DMRM ASSESSMENT OFFICER WORKSHEET

PERMITTEE:

American Energy Corporation

PERMIT#

D-1159

INSPECTOR:

John Puterbaugh

INSPECTION

DATE

3/15/10

NOV #

29019

**HISTORY: FOR VIOLATIONS ISSUED FOR THE SAME PERMIT
DURING THE LAST TWELVE CALENDAR MONTHS**

QTY

AMOUNT

8 Number of Violations duplication of the same violation: (100.00)

0

\$0.00

9 Number of Violations failure to abate cessation order: (100.00)

0

\$0.00

10 Number of Violations each for all other violations: (20.00)

0

\$0.00

History Total:

\$0.00

PROPOSED ASSESSMENT TOTAL:

\$200.00

DATE:

4/23/2010

PATTERN OF VIOLATIONS REVIEWED: ☒ YES

☐ NO

- ☐ NO
☐ YES
☐ N/A

Did the permittee take EXTRAORDINARY actions to
abate the violation in the shortest possible time and
date the violation before the time set for abatement?
(See attached Good Faith Compliance Report)

FINAL ASSESSEMNT TOTAL:

DATE:

NOTE: Any proposed and final assessment of \$500.00 or less may be waived if the violation did not cause irreparable damage or affect public health or safety, and if the violation was abated within the prescribed abatement time. However, any assessment for a violation which was previously cited during the last 12 months on the same permit, for exceeding point discharge effluent limitations or depositing sediment onto adjacent lands will generally not be waived.

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By: _____ Date: _____ By: _____ Date: _____

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